

**ZB# 90-3**

**Donald Dietrichsen**

**57-1-72**

# 90-3- Dietrichsen, Don - Rear yard.

Prelim.  
Jan. 8, 1990.

- ①. Copy of Deed.
- ②. Photos.

Public Hearing:  
Aug. 13, 1990.

Notice to Sentinel  
on 7/12/90.

Request for  
Review # 75, 90

Area Variance  
Granted.  
8/13/90

**General Receipt**

11564

**TOWN OF NEW WINDSOR**  
 555 Union Avenue  
 New Windsor, N. Y. 12550

Received of Dorinda A. Dietrichsen Aug 14 19 90 \$ 25.00

Twenty-five and 00/100 DOLLARS

For ZBA Application Fee # 90-3

DISTRIBUTION:

FUND	CODE	AMOUNT
<u>CD # 9531</u>		<u>25.00</u>

By Pauline H. Townsend  
Town Clerk  
 Title

Williamson Law Book Co., Rochester, N. Y. 14609



NEW WINDSOR ZONING BOARD OF APPEALS

-----X

In the Matter of the Application of

DECISION GRANTING  
AREA VARIANCE

DONALD DIETRICHSEN,

#90-3.

-----X

WHEREAS, DONALD DIETRICHSEN, R. D. #4, Box 391D, Chestnut Avenue, New Windsor, N.Y. 12553, has made application before the Zoning Board of Appeals for a 6 ft. rear yard variance in order to obtain a certificate of compliance to allow an existing enclosed porch at residential dwelling located at the above address in an R-4 zone; and

WHEREAS, a public hearing was held on the 13th day of August, 1990 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, Applicant appeared in behalf of himself; and

WHEREAS, the application was unopposed; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence shows that applicant is seeking permission to vary the bulk regulations with regard to rear yard in order to allow an existing enclosed porch at the above residential dwelling which was constructed by applicant after he was issued a building permit in error.

3. The evidence presented by the applicant indicated that he applied for, and was granted, a building permit to add a screened in porch to his dwelling. The porch was constructed according to the submitted plans. After the porch was completed, except for the gutters, the applicant was advised that a Certificate of Occupancy could not be issued for the porch since the building permit had been issued in error due to the fact that applicant should have been advised that a variance was required for the screened in porch. The applicant then submitted this variance application.

4. The evidence presented by Applicant substantiated the fact that a variance for less than the allowable rear yard would be required in order for Applicant to obtain a Certificate of Occupancy for the now constructed screened-in porch which

otherwise would conform to the bulk regulations in the R-4 zone and rejection of same would cause practical difficulty since the relief sought by Applicant is not substantial in relation to the required bulk regulations and also taking into account that the building permit was issued by the building inspector and later rescinded.

5. The applicant has shown practical difficulty since it would be unfair to require that the screened in porch be reconstructed in a conforming manner since the error in issuing the building permit was through no fault of the applicant. It would be prohibitively expensive for the applicant to be required to reconstruct the same in a conforming manner at this time.

6. The requested variance will not result in substantial detriment to adjoining properties or change the character of the neighborhood.

7. The requested variance will produce no effect on the population density or governmental facilities.

8. That there is no other feasible method available to Applicant which can produce the necessary results other than the variance procedure.

9. The interest of justice would be served by allowing the granting of the requested variance.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a 6 ft. rear yard variance sought by Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: September 10, 1990.

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Chairman

(ZBA DISK#6-bu053085.FD)

August 13, 1990

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PUBLIC HEARING: DON DIETRICHSEN:

Mr. Don Dietrichsen came before the Board presenting this proposal.

BY MR. FENWICK: This is a request for a six foot rear yard variance to obtain a certificate of compliance for existing screened in porch located at Chestnut Avenue in R4 zone.

BY MR. FENWICK: Tell us what you want to do. It has to go on the record.

BY MR. DIETRICHSEN: Well, I'd like to obtain the variance.

BY MR. FENWICK: You are going to have to explain the variance because this is for the record.

BY MR. DIETRICHSEN: Six foot variance to an existing porch as we indicated with insufficient rear yard space. Do I go about telling the Board how this all came about?

BY MR. FENWICK: Yes.

BY MR. DIETRICHSEN: Okay, I applied for a permit back in July. It was approved. I went ahead and constructed it. I worked with Frank Lisi ever time I had gone through on the permit and posted the building permit on the outside of the dwelling. Later in the, in November I guess, a fella by the name of Bill Pullar gave me a note that there had been a mistake and I'd have to go before the variance board and I came in January, I guess, and it was, I was told at that time I'd have to have a public hearing and basically that is about what it is. I constructed based in accordance with the building permit that I was issued.

BY MS. BARNHART: For the record, there were 32 on the list and 27 returns here.

BY MR. FENWICK: I'd say that is practical difficulty.

BY MR. TORLEY: Who built that?

BY MR. DIETRICHSEN: I did.

August 13, 1990

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apparently it won't work out to your advantage.

BY MR. SCIAMANNA: The other side only has 28 feet so that has to be side yard.

BY MR. FENWICK: I couldn't see it that clear on the little sketch but he has a better drawing there. How wide is the deck away from the house? How far away from the house does it stick?

BY MR. SMITH: Ten feet by, I believe, 18 it is.

BY MR. FENWICK: And the deck you want to put in is how far?

BY MR. SMITH: 16 by 25 long.

BY MR. FENWICK: So he is just legal at ten feet now, that is what it is, is that correct?

BY MR. SCIAMANNA: Yes, right, ten feet, he's got 40, right.

BY MR. FENWICK: If there is no one in the audience on this and I take it that no one signed, there isn't any --

BY MS. BARNHART: No, no input from the public. There is nobody on the list.

BY MR. NUGENT: I make a motion that we approve it.

BY MR. TANNER: I will second it.

ROLL CALL:

TORLEY:	Aye.
NUGENT:	Aye.
TANNER:	Aye.
FENWICK:	Aye.

August 13, 1990

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BY MR. LUCIA: When you were notified that there was, that there was an error or mistake in the bridling permit and you did have to go for a variance, how far along were you with the construction?

BY MR. DIETRICHSEN: I was finished except for the gutters. Ironically, Frank Lisi came by and said I can't approve that last section of the permit. I said why and he says before you have to have gutters and I said I didn't think that was -- he said there was a law that came in 1987 that said you had to have gutters. I bought that at the same time, I don't know, Bill called me on the telephone, followed up with a notice that was here and said that I will have to go before the Board.

BY MR. FENWICK: Well, as annoying as it is, it makes your property legal no matter what, the law is the law unfortunately apparently the neighbors have no objection. I will ask for a motion since there are no questions.

BY MR. TANNER: I move that we grant the variance.

BY MR. TORLEY: I will second it.

ROLL CALL:

TORLEY:	Aye.
TANNER:	Aye.
NUGENT:	Aye.
Fenwick:	Aye.



August 13, 1990

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PUBLIC HEARING: JOHN D. SOTTILE:

John D. Sottile came before the Board presenting this proposal.

BY MR. FENWICK: This is a request for two foot rear yard variance to enclose pre-existing deck located at 418 Philo Street in an R4 zone.

BY MS. BARNHART: We have a letter from the Orange County Planning Department.

BY MR. FENWICK: I will read into the minutes this letter from the Orange County Department of Planning. This guy is really up on it. Dear Mr. Nugent: We have received an area variance application for John D. Sottile. The granting of the area variance to reduce the rear yard requirement is a matter of local determination. To assist you with your review, we have provided you with this general information regarding area variances. The Zoning Board of Appeals should grant the minimum relief necessary to allow reasonable use of the land in question. Not every applicant for area variance automatically is entitled to receive relief. Each applicant should be carefully considered against the requirement for proof of practical difficulty. The determination of practical difficulty is a three step process. The first, second and third step. You can basically see that the darkened words are Mr. Nugent and John D. Sottile. That is where you fill in the blanks.

BY MR. TORLEY: Did they give an opinion?

BY MR. FENWICK: Local determination. For the record, tell us your story.

BY MR. SOTTILE: My story is that I need to in refinancing my adjustable rate mortgage, they turned up the fact that I had built, I had enclosed the deck, the deck was pre-existing and apparently when it was built by the builder, it exceeded the 40 foot rear yard variance but they showed the survey based on the foundation lot and the deck that was put on after the survey was shot. I did not extend the deck at all, I just enclosed it. And you can see by the pictures that I haven't



# TOWN OF NEW WINDSOR

555 UNION AVENUE.  
NEW WINDSOR, NEW YORK

*Prelim.*  
*Jan. 8, 1990*  
*7:30 p.m.*

NOTICE OF DISAPPROVAL OF BUILDING PERMIT  
1763

FILE NUMBER 89-49

TO: DONALD DIETRICHSEN - 496-3906.

RD #4 BOX 391 D CHESTNUT AVE

NEW WINDSOR, N.Y.

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED \_\_\_\_\_,

FOR PERMIT TO RECIEVE C.O. Compliance -

AT ABOVE ADDRESS IS DISSAPPROVED ON THE

FOLLOWING GROUNDS INSUFFICIENT REAR YARD SETBACKS

ZONE R-9 TYPE OF VARIANCE AREA

REQUIREMENTS

40'

PROPOSED

34'

VARIANCE

6'

CALL PAT BARNHART (ZBA SECRETARY) AT 565-8550 FOR APPOINTMENT

*Pat Barnhart*  
BUILDING/ZONING INSPECTOR

TOWN OF NEW WINDSOR, ORANGE COUNTY, N. Y.

Examined.....19.....  
Approved.....19.....  
Disapproved a/c.....  
Permit No. ....

Office of Building Inspector  
Michael L. Babcock  
Town Hall, 555 Union Avenue  
New Windsor, New York 12550  
Telephone 565-8807

Refer —

Planning Board.....  
Highway.....  
Sewer.....  
Water.....  
Zoning Board of Appeals .....

APPLICATION FOR BUILDING PERMIT

Pursuant to New York State Building Code and Town Ordinances

Date.....19.....

INSTRUCTIONS

- a. This application must be completely filled in by typewriter or in ink and submitted in duplicate to the Building Inspector.
- b. Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram which is part of this application.
- c. This application must be accompanied by two complete sets of plans showing proposed construction and two complete sets of specifications. Plans and specifications shall describe the nature of the work to be performed, the materials and equipment to be used and installed and details of structural, mechanical and plumbing installations.
- d. The work covered by this application may not be commenced before the issuance of a Building Permit.
- e. Upon approval of this application, the Building Inspector will issue a Building Permit to the applicant together with approved set of plans and specifications. Such permit and approved plans and specifications shall be kept on the premises, available for inspection throughout the progress of the work.
- f. No building shall be occupied or used in whole or in part for any purpose whatever, until a Certificate of Occupancy shall have been granted by the Building Inspector.

APPLICATION IS HEREBY MADE to the Building Inspector for the issuance of a Building Permit pursuant to the New York Building Construction Code Ordinances of the Town of New Windsor for the construction of buildings, additions or alterations, or for removal or demolition or use of property, as herein described. The applicant agrees to comply with all applicable laws, ordinances, regulations and certifies that he is the owner or agent of all that certain lot, piece or parcel of land and/or building described in this application and if not the owner, that he has been duly and properly authorized to make this application and to assume responsibility for the owner in connection with this application.

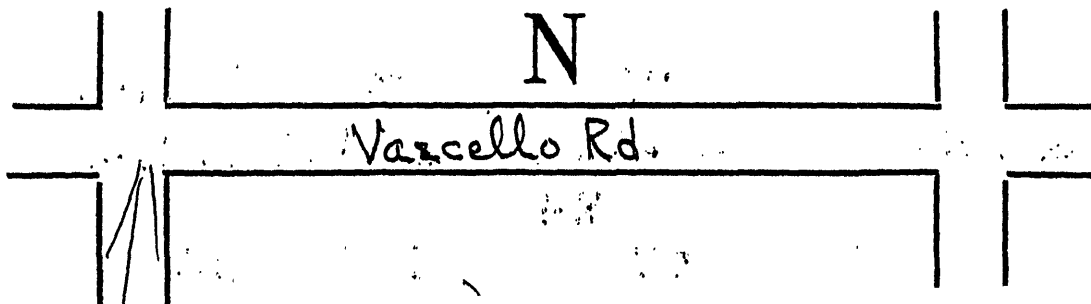
Donald Dietrichsen  
(Signature of Applicant)

RD #4, Box 391D - Chestnut Ave. New Windsor  
N.Y.  
12550  
(Address of Applicant)

PLOT PLAN

NOTE: Locate all buildings and indicate all set-back dimensions.

Applicant must indicate the building line or lines clearly and distinctly on the drawings.



Planning Board.....  
Highway.....  
Sewer.....  
Water.....  
Zoning Board of Appeals.....

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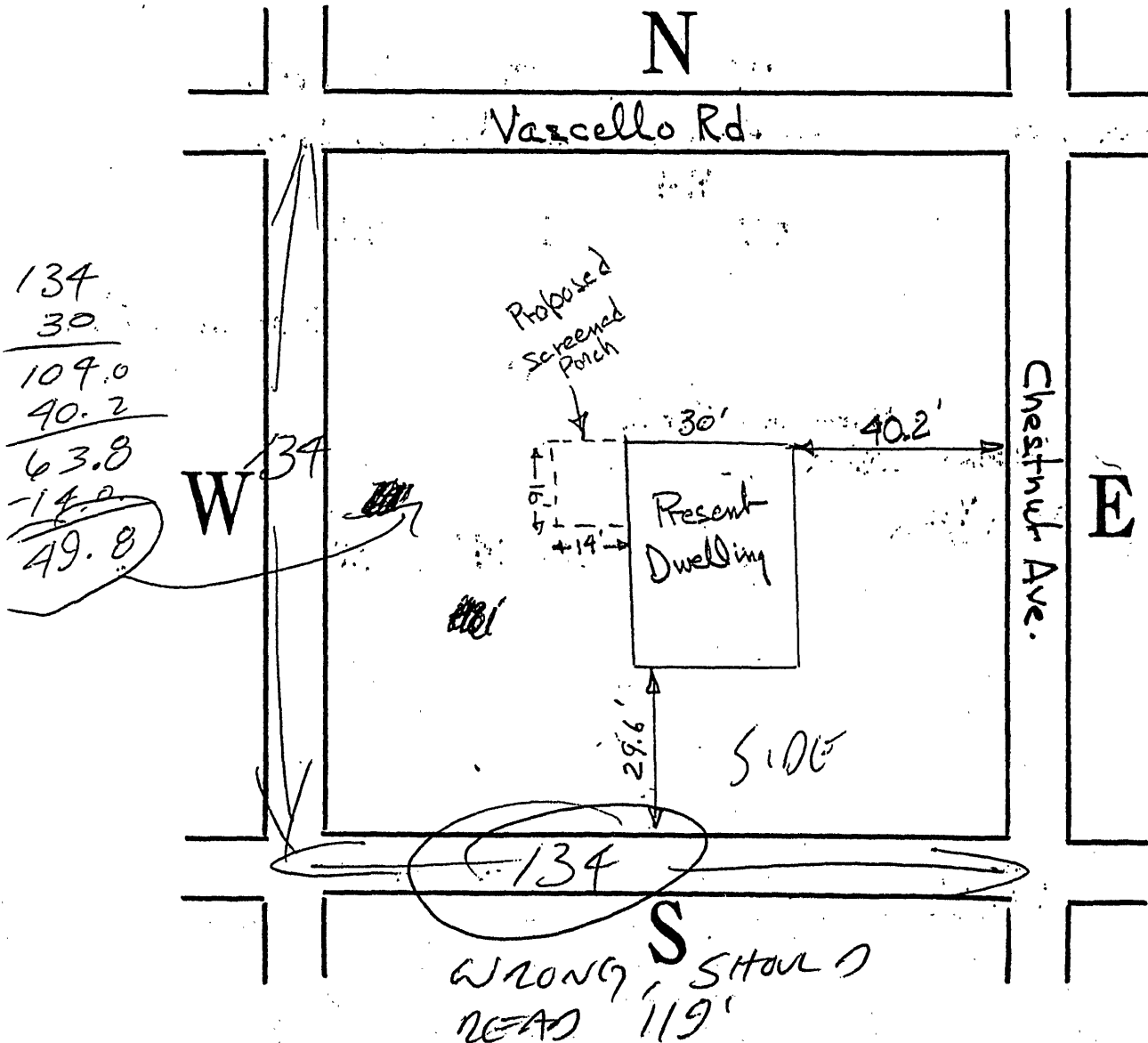
Donald Dietrichson  
(Signature of Applicant)

RD #4, Box 391D - Chestnut Ave. New Windsor N.Y.  
(Address of Applicant) 12550

PLOT PLAN

NOTE: Locate all buildings and indicate all set-back dimensions.

Applicant must indicate the building line or lines clearly and distinctly on the drawings.



OK  
BP

## IMPORTANT

### REQUIRED INSPECTIONS OF CONSTRUCTION - YOU MUST CALL FOR THESE

OTHER INSPECTIONS WILL BE MADE IN MOST CASES, BUT THOSE LISTED BELOW MUST BE MADE OR CERTIFICATE OF OCCUPANCY MAY BE WITHHELD. DO NOT MISTAKE AN UNSCHEDULED INSPECTION FOR ONE OF THOSE LISTED BELOW. UNLESS AN INSPECTION REPORT IS LEFT ON THE JOB INDICATING APPROVAL OF ONE OF THESE INSPECTIONS, IT HAS NOT BEEN APPROVED, AND IT IS IMPROPER TO CONTINUE BEYOND THAT POINT IN THE WORK. ANY DISAPPROVED WORK MUST BE REINSPECTED AFTER CORRECTION.

CALL ONE DAY AHEAD FOR ALL INSPECTIONS TO AVOID DELAYS - 565-8807

- 1-WHEN EXCAVATING IS COMPLETE AND FOOTING FORMS ARE IN PLACE (BEFORE POURING).
- 2-FOUNDATION INSPECTION - CHECK HERE FOR WATERPROOFING AND FOOTING DRAINS.
- 3-INSPECT GRAVEL BASE UNDER CONCRETE FLOORS, AND UNDERSLAB PLUMBING.
- 4-WHEN FRAMING IS COMPLETED, AND BEFORE IT IS COVERED FROM INSIDE, AND PLUMBING ROUGH-IN.
- 5-INSULATION.
- 6-PLUMBING FINAL & FINAL. HAVE ON HAND ELECTRICAL INSPECTION DATA PER THE BOARD OF FIRE UNDERWRITERS, AND FINAL CERTIFIED PLOT PLAN. BUILDING IS TO BE COMPLETE AT THIS TIME.
- 7-DRIVEWAY INSPECTION MUST MEET APPROVAL OF TOWN HIGHWAY INSPECTOR.
- 8-\$20.00 CHARGE FOR ANY SITE THAT CALLS FOR THE SAME INSPECTION TWICE.
- 9-PERMIT NUMBER MUST BE CALLED IN WITH EACH INSPECTION.
- 10-THERE WILL BE NO INSPECTIONS UNLESS YELLOW PERMIT CARD IS POSTED.
- 11-SEWER PERMITS MUST BE OBTAINED ALONG WITH BUILDING PERMITS FOR NEW HOUSES.
- 12-SPETIC PERMIT MUST BE SUBMITTED WITH ENGINEER'S DRAWING & PERC TEST.
- 13-ROAD OPENING PERMITS MUST BE OBTAINED FROM TOWN CLERK'S OFFICE.

Name of Owner of Premises ..... Arlene & Donald Dietrichsen .....

Address ..... RD#4, Box 391D - Chestnut Ave (New Windsor, NY) ..... Phone ..... 496-3906 .....

Name of Architect ..... Same As Owner .....

Address ..... Phone .....

Name of Contractor ..... Same As Owner .....

Address ..... Phone .....

State whether applicant is owner, lessee, agent, architect, engineer or builder.....

If applicant is a corporation, signature of duly authorized officer.

.....  
(Name and title of corporate officer)

1. On what street is property located? On the ..... W ..... side of ..... Chestnut Ave. .....

and ..... Corner of ..... (N. S. E. or W.) ..... Vascello & Chestnut Ave. .....

2. Zone or use district in which premises are situated ..... R4 .....

3. Tax Map description of property: Section ..... 57 ..... Block ..... 1 ..... Lot ..... 72 .....

ANY DISAPPROVED WORK MUST BE REINSPECTED AFTER CORRECTION.

CALL ONE DAY AHEAD FOR ALL INSPECTIONS TO AVOID DELAYS - 565-8807

- 1-WHEN EXCAVATING IS COMPLETE AND FOOTING FORMS ARE IN PLACE (BEFORE POURING).
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- 13-ROAD OPENING PERMITS MUST BE OBTAINED FROM TOWN CLERK'S OFFICE.

Name of Owner of Premises ..... Arlene & Donald Dietrichsen.....

Address..... RD#4, Box 391D-Chestnut Ave (New Windsor, NY)..... Phone..... 496-3906.....

Name of Architect..... Same As Owner.....

Address..... Phone.....

Name of Contractor..... Same As Owner.....

Address..... Phone.....

State whether applicant is owner, lessee, agent, architect, engineer or builder.....

If applicant is a corporation, signature of duly authorized officer.

.....  
(Name and title of corporate officer)

1. On what street is property located? On the..... W..... side of..... Chestnut Ave.  
(N. S. E. or W.)  
and..... Corner of..... feet from the intersection of..... Vancello & Chestnut Ave.....

2. Zone or use district in which premises are situated..... R4.....

3. Tax Map description of property: Section..... 57..... Block..... 1..... Lot..... 72.....

4. State existing use and occupancy of premises and intended use and occupancy of proposed construction:

a. Existing use and occupancy..... b. Intended use and occupancy..... Screened Porch

5. Nature of work (check which applicable): New Building..... Addition..... ☒ Alteration..... Repair..... Removal.....

Demolition..... Other..... Screened Porch

6. Size of lot: Front..... 134.22..... Rear..... 134.59..... Depth..... Front Yard..... Rear Yard..... Side Yard.....

Is this a corner lot?..... Yes

7. Dimensions of entire new construction: Front..... 16'..... Rear..... Depth..... 14'..... Height..... 12'..... Number of stories..... 1.....

8. If dwelling, number of dwelling units..... Number of dwelling units on each floor.....

Number of bedrooms..... Baths..... Toilets.....

Heating Plant: Gas..... Oil..... Electric..... ☒ Hot Air..... Hot Water.....

If Garage, number of cars.....

9. If business, commercial or mixed occupancy, specify nature and extent of each type of use.....

10. Estimated cost..... \$2,786..... Fee..... \$20.00.....  
(to be paid on filing this application)

Costs for the work described in the Application for Building Permit include the cost of all the construction and other work done in connection therewith, exclusive of the cost of the land. If final cost shall exceed estimated cost, an additional fee may be required before the issuance of Certificate of Occupancy.

DIETRICHSEN, DON

MR. NUGENT: This is a request for 6 feet rear yard variance to obtain certificate of compliance on porch located on Chestnut Avenue in an R-4 zone.

Mr. Dan Dietrichsen came before the Board representing this proposal.

MR. NUGENT: Tell us what you want to do.

MR. DIETRICHSEN: I'd like to get a certificate of compliance. How it happened was I applied for a building permit in July 27th, I believe it was issued. I started construction, got the first inspection. You are not interested in seeing the building permits, inspections, are you?

MR. NUGENT: No.

MR. DIETRICHSEN: The framing was approved, the insultation was approved, started closing it in, had good response from Frank Lisi, I worked with him, he was very understanding and in September, I got a call right after I talked to Frank, I think it was the third week in September that said hey, we made a mistake, your building permit it is wrong. We shouldn't have issued one and I said I am about 85% done. What do I do now? Do I stop and they said no, I will set you up to go before the variance committee, preliminary hearing. That was in September. I didn't hear anything again. I called a couple of times, got no response. I got a hold of Frank again for a final inspection and failed it because I forgot to put up the gutters. I put up the gutters and called Frank again and asked him if he was going to come by and review it. He said he'd drive by to see it again. Frank was always very responsive, very good to work with. He said he recorded it in the book and then I got a letter day before Christmas saying that the building permit was disapproved. And I spoke to Mr. Babcock about it and he indicated yes, it was in error but I'd have to come before the variance committee.

MR. NUGENT: How much are you off?

MR. DIETRICHSEN: Six (6) feet.

MR. J. BABCOCK: He was issued a building permit?

MR. NUGENT: Yes.

MR. J. BABCOCK: You had site inspections?

MR. DIETRICHSEN: Yes, got it all right here.

MR. J. BABCOCK: When you were getting ready they told you that your building permit was denied?

MR. NUGENT: C.O. was denied.

MR. DIETRICHSEN: They called me in September, I believe, Bill Pullar indicated there had been a mistake made and that I'd have to go before the variance committee because I shouldn't have had a building permit. I said okay, I am about 85% done, what do I do? Do I stop with the weather coming up? He said no, go ahead and I will make arrangements for you to go before the committee. I said fine, anything I have to do to get the approval I will do it and I think I spoke to Mike.

MR. NUGENT: Do you agree with all that Mike?

MR. M. BABCOCK: Somewhat. Really the first time that I know it was at the last Zoning Board meeting when Mr. Dietrichsen came and talked to me. I talked to one of the guys that was helping him build it. When I checked with my office to find out why this was and why they continued to give him an inspection when they knew this and Billy Pullar issued the permit and Frank Lisi was doing the C.O.'s so there was a little bit of confusion. On the application there was some measurements put down on the size of the lot which was 134 feet, that is what they put on the application and when we got the survey, we found out that the property is only 119 feet and that is when I questioned Billy why that happened. That is what he told me. He based his decision on the applicant wrote 134 feet that his lot was 134 feet deep and it really turned out to be 119 feet. So I am not sure where the mistakes were but--

MR. NUGENT: There was a mistake?

MR. DIETRICHSEN: If I may, I take exception to that. I distinctly print letters and numbers very distinctly and when Billy told me that here is the one that I submitted, if I may show it to you.

MR. NUGENT: I believe I have a copy of it.

MR. DIETRICHSEN: This is what I submitted, okay, I submitted a copy of the survey and here is the exact thing I submitted now if you look at my numbers as I wrote them, they certainly don't look like this. I did not write this. That is why I questioned Billy. I said geez, that is not mine and that is not my writing and I wouldn't say that I had 134 feet because I don't, it is right on the survey.

MR. LUCIA: You made no other reference to lot depth on your application?



MR. DIETRICHSEN: I did as I was instructed, yes.

MR. LUCIA: Your size lot is this your writing here, this 134.59?

MR. DIETRICHSEN: Yes.

MR. LUCIA: That must be where the mistake is. That was referring to the page 2 of the application for building permit on the lot dimension figures they showed frontage as 134.22 feet and rear as 134.59 feet.

MR. NUGENT: Right. That is what I have.

MR. M. BABCOCK: This is, it is a corner lot, you have two front yards based on a decision of one is a front or one is a rear yard it is somewhat confusing and--

MR. NUGENT: I still have a gray area where someone came up with 119 feet.

MR. KIETRICHSEN: Certainly wasn't me, sir as you can see this is not my writing.

MR. LUCIA: Survey shows 121 feet.

MR. DIETRICHSEN: Survey on this side is 121 feet, the front is 134 and I had 134 across here, sir.

MR. LUCIA: The survey that Mr. Dietrichsen has just presented is dated July 25th of '84 made by Ron Washburn and shows that line per the survey as 134.22 and filed map is 134.20 feet. I don't know where the 119 feet came from.

MR. J. BABCOCK: I just asked Mike the same question.

MR. M. BABCOCK: 119 came from subtraction from the width of the house, the front yard setback and the rest of what it came out to be. The front yard setback is 40.2, the house is 30.5 and that leaves 14 foot left and the 14 foot deck came to 84.7. I don't know--it says 119 minus 84.7 comes up--

MR. FENWICK: What is the problem, the 14 foot side?

MR. M. BABCOCK: Yes.

MR. J. BABCOCK: Where?

MR. KONKOL: Where is the front?

MR. DIETRICHSEN: Right here on Chestnut.

MR. J. BABCOCK: He has got 35 feet in the back if you deduct

everything.

MR. M. BABCOCK: You come up with 34 and he needs 40, that is where--

MR. DIETRICHSEN: It was a mistake and I am just trying to comply.

MR. FENWICK: What does he need for a rear yard, 40?

MR. M. BABCOCK: Yes.

MR. KONKOL: He has got not quite 35 feet so he needs a 6 foot variance.

MR. DIETRICHSEN: The neighbors have no complaints but I just want to do what is right.

MR. NUGENT: This lot is not square, it is not 134 foot square, it is 121 by 134 feet.

MR. FENWICK: 134 doesn't come into play. What comes into play is this, that 121 and 116, that is the distance we are talking about, the 134 doesn't come into the picture.

MR. KONKOL: The man is looking for a 6 foot variance.

MR. NUGENT: We are trying to eliminate all together the variance.

MR. KONKOL: I think he is going to have to go for a variance.

MR. NUGENT: What is the side yard?

MR. M. BABCOCK: Fifteen (15) feet. He has two front yards he has to maintain one front yard.

MR. NUGENT: So the 29 foot is where the problem is?

MR. M. BABCOCK: The 29 feet on the side yard you want to call that a rear yard, he needs a variance on that.

MR. DIETRICHSEN: I have to come back again?

MR. NUGENT: For a public hearing.

MR. DIETRICHSEN: What happens at the public hearing if there is someone here that objects, that means I have to tear the porch down?

MR. LUCIA: One of the things you have to prove when you are coming in with an area variance is what is called practical difficulty so what you should do to try and prove practical

1-8-90

difficulty is bring in your whole history of how you applied, what your understanding was, how you got your inspections, show us.

MR. DIETRICHSEN: Identify that?

MR. LUCIA: You have to show the public also explain to the Board why it would be difficult for you at this point in time to reconstruct the dwelling to conform, how expensive that would be and so on and so forth and that is the sort of practical difficulty this Board needs.

MR. KONKOL: I'd like to make the motion to set him up for a public hearing.

MR. J. BABCOCK: I will second that.

ROLL CALL:

Mr. Fenwick	Aye
Mr. Konkol	Aye
Mr. J. Babcock	Aye
Mr. Nugent	Aye

TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE OR SPECIAL PERMIT

# 90-3

Date: 7/12/90.

I. Applicant Information:

- (a) Arlene & Donald Dietrich - RD#4, Box 391D - Chestnut Ave. - New Windsor, N.Y. 496-3906  
(Name, address and phone of Applicant) (Owner)  
(b) \_\_\_\_\_  
(Name, address and phone of purchaser or lessee)  
(c) \_\_\_\_\_  
(Name, address and phone of attorney)  
(d) \_\_\_\_\_  
(Name, address and phone of broker)

II. Application type:

- ☐ Use Variance ☐ Sign Variance  
☒ Area Variance ☐ Interpretation.

III. Property Information:

- (a) R-4 Chestnut Ave. 57-1-72 121.75 x 134.22' ±  
(Zone) (Address) (S B L) (Lot size)  
(b) What other zones lie within 500 ft.? N/A  
(c) Is a pending sale or lease subject to ZBA approval of this application? No  
(d) When was property purchased by present owner? \_\_\_\_\_  
(e) Has property been subdivided previously? No When? \_\_\_\_\_  
(f) Has property been subject of variance or special permit previously? No When? \_\_\_\_\_  
(g) Has an Order to Remedy Violation been issued against the property by the Zoning Inspector? No  
(h) Is there any outside storage at the property now or is any proposed? Describe in detail: N/A

IV. Use Variance: N/A

- (a) Use Variance requested from New Windsor Zoning Local Law, Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_, to allow:  
(Describe proposal) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

N/A.

- (b) The legal standard for a "Use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

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✓ V. Area variance:

- (a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Use/Bulk Regs., Col. G.

Requirements	Proposed or Available	Variance Request
Min. Lot Area		
Min. Lot Width		
Reqd. Front Yd.		
Reqd. Side Yd.		
✓ Reqd. Rear Yd.	<u>40'</u>	<u>34'</u>
Reqd. Street Frontage*		
Max. Bldg. Hgt.		
Min. Floor Area*		
Dev. Coverage*	%	%
Floor Area Ratio**		

\* Residential Districts only

\*\* Non-residential districts only

- (b) The legal standard for an "AREA" variance is practical difficulty. Describe why you feel practical difficulty will result unless the area variance is granted. Also, set forth any efforts you have made to alleviate the difficulty other than this application.

Porch has been completely constructed in accordance with Bldg. Permit issued 7/27/89. To remove the structure would be very costly/time consuming in conjunction with the original cost & efforts spent.

VI. Sign Variance: N/A

- (a) Variance requested from New Windsor Zoning Local Law, Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_.

	Requirements	Proposed or Available	Variance Request
Sign 1			
Sign 2			
Sign 3			
Sign 4			
Sign 5			
Total	sq.ft.	sq.ft.	sq.ft.

- (b) <sup>N/A.</sup> Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or oversize signs.

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- (c) <sup>N/A.</sup> What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

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VII. Interpretation: <sup>N/A.</sup>

- (a) Interpretation requested of New Windsor Zoning Local Law, Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_.

- (b) Describe in detail the proposal before the Board:

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VIII. Additional comments: ✓

- (a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or upgraded and that the intent and spirit of the New Windsor Zoning Local Law is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

*The quality & aesthetic appearance / construction of the structure complement the existing dwelling.*

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IX. Attachments required:

- ☒ Copy of letter of referral from Bldg./Zoning Inspector.
- ☒ Copy of tax map showing adjacent properties.
- ☒ Copy of contract of sale, lease or franchise agreement.
- ☒ Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot.
- ☒ <sup>N/A.</sup> Copy(ies) of sign(s) with dimensions.
- ☒ Check in the amount of \$ 25.00 payable to TOWN OF NEW WINDSOR.
- ☒ Photos of existing premises which show all present signs and landscaping

X. AFFIDAVIT

Date July 12, 1990.

STATE OF NEW YORK )  
COUNTY OF ORANGE ) SS.:

The undersigned Applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his knowledge or to the best of his information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance or permit granted if the conditions or situation presented herein are materially changed.

Donald A. Dietrich  
(Applicant)

Sworn to before me this

12th day of July, 1990.  
Patricia A. Barnhart

PATRICIA A. BARNHART  
Notary Public, State of New York  
No. 01BA4904434  
Qualified in Orange County  
Commission Expires August 31, 1991.

XI. ZBA Action:

- (a) Public Hearing date \_\_\_\_\_.
- (b) Variance is \_\_\_\_\_.
- Special Permit is \_\_\_\_\_.
- (c) Conditions and safeguards: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

A FORMAL DECISION WILL FOLLOW  
WHICH WILL BE ADOPTED BY  
RESOLUTION OF ZONING BOARD OF APPEALS.

## STATE OF NEW YORK, COUNTY OF

ss:

On the       day of       19       , before me  
personally came

to me known to be the individual described in and who  
executed the foregoing instrument, and acknowledged that  
executed the same.

## STATE OF NEW YORK, COUNTY OF

ss:

On the       day of       19       , before me  
personally came

to me known to be the individual described in and who  
executed the foregoing instrument, and acknowledged that  
executed the same.

## STATE OF NEW YORK, COUNTY OF ORANGE

ss:

On the 11<sup>th</sup> day of October 1984, before me  
personally came Gloria Nilsen  
to me known, who, being by me duly sworn, did depose and  
say that she resides at No. 17 Eisenhower Drive, in  
the Town of Cornwall, New York ;  
that she is the President  
of Durable Homes, Inc.

, the corporation described  
in and which executed the foregoing instrument; that she  
knows the seal of said corporation; that the seal affixed  
to said instrument is such corporate seal; that it was so  
affixed by order of the board of directors of said corpora-  
tion, and that she signed her name thereto by like order.

## STATE OF NEW YORK, COUNTY OF

ss:

On the       day of       19       , before me  
personally came  
the subscribing witness to the foregoing instrument, with  
whom I am personally acquainted, who, being by me duly  
sworn, did depose and say that he resides at No.

that he knows

to be the individual  
described in and who executed the foregoing instrument;  
that he, said subscribing witness, was present and saw  
execute the same; and that he, said witness,  
at the same time subscribed his name as witness thereto.

*Mary E. Doufona*

MARY E. DOUFONA  
Notary Public, State of New York  
Qualified in Orange County  
Commission Expires March 30, 1986

## Bargain and Sale Deed

WITH COVENANT AGAINST GRANTOR'S ACTS

TITLE No.

DURABLE HOMES, INC.

TO

DONALD DEITRICKSEN  
AND  
ARLENE DIETRICKSEN

SECTION

BLOCK

LOT

COUNTY OR TOWN

RETURN BY MAIL TO:

JERALD FEIDELHOLTZ, ESQ.  
270 QUASSAICK AVENUE  
NEW WINDSOR, NEW YORK 12550

Zip No.

350-  
14-  
2-  
*D. Dietricksen*

Recording Office.

TE 384 4X

Office, s.s.  
2<sup>nd</sup> day  
at 9:00  
per 2.30  
age 4.67

*Murphy*  
Clerk



STATE OF NEW YORK, COUNTY OF ORANGE

ss:

On the 11<sup>th</sup> day of October 1984, before me personally came Gloria Nilsen to me known, who, being by me duly sworn, did depose and say that she resides at No. 17 Eisenhower Drive, in the Town of Cornwall, New York; that she is the President of Durable Homes, Inc., the corporation described in and which executed the foregoing instrument; that she knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that she signed her name thereto by like order.

*Mary E. Conner*

MARY E. CONNER  
Notary Public in and for the State of New York  
Qualified in Orange County  
Commission Expires March 30, 1986

**Bargain and Sale Deed**  
WITH COVENANT AGAINST GRANTOR'S ACTS

TITLE No.

DURABLE HOMES, INC.

TO

DONALD DEITRICKSEN  
AND  
ARLENE DIETRICKSEN

STATE OF NEW YORK, COUNTY OF

ss:

On the day of 19, before me personally came the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No. that he knows

to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.

SECTION

BLOCK

LOT

COUNTY OR TOWN

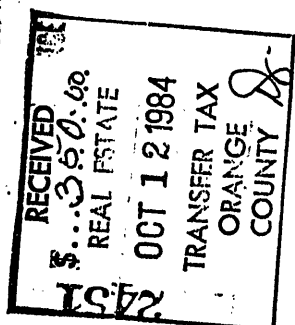
RETURN BY MAIL TO:

JERALD FEIDELHOLTZ, ESQ.  
270 QUASSAICK AVENUE  
NEW WINDSOR, NEW YORK 12550

Zip No.

350-14-2  
D. Dietricksen

Reserve this space for use of Recording Office.



LIBER 2301 PG 471

Orange County Clerk's Office, S.S.  
Recorded on the 12<sup>th</sup> day of Oct. 1984 at 2:07 p.m.  
Examined at page 467  
Morton S. Murphy, Clerk

**TOGETHER** with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof, **LIBER 2301 PG 470**

**TOGETHER** with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

**TO HAVE AND TO HOLD** the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever, *as tenants by entirety*

**AND** the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

**AND** the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever, *as tenants by entirety*

**AND** the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

**AND** the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

**IN WITNESS WHEREOF**, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

DURABLE HOMES  
By:

*Gloria Nielsen*  
GLORIA NIELSEN

PRESIDENT



RD-33-12503

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

**THIS INDENTURE**, made the 11th day of October, nineteen hundred and eighty four  
**BETWEEN**

DURABLE HOMES, INC., a domestic corporation with principal offices located at 17 Eisenhower Drive, in the Town of Cornwall, County of Orange and State of New York,

party of the first part, and

DONALD DIETRICHSEN AND ARLENE DIETRICHSEN, presently residing at 9 Willow Lane, in the Town of New Windsor, County of Orange and State of New York,

party of the second part,

**WITNESSETH**, that the party of the first part, in consideration of -----TEN DOLLARS-----

-----(\$10.00)----- dollars,

lawful money of the United States, and other good and valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

**ALL** that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of New Windsor, Orange County, New York, being more particularly described as follows:

BEGINNING at a point of intersection formed by the Southerly line of Vascello Road, and the Westerly line of Chesnut Avenue, all as shown on a certain Map entitled "Lands of Vascello" as filed in the Orange County Clerk's Office on June 19, 1959 as filed Map No. 1807, and running thence;

1. South 10 degrees 45' 15"W 134.22' along said line of Chesnut Avenue to a point, thence;
2. N 77 degrees 01' 30" W 121.75' to a point, thence;
3. North 13 degrees 12' 30" E 134.59' along the division line between Lot No. 5, on the West, and the herein described Lot No. 6 on the East, to a point, thence;
4. South 76 degrees 47' 30" E 116.00' along the aforesaid Southerly line of Vascello Road, to the point or place of beginning.

BEING AND INTENDED to be the same premise conveyed from Alfred Nilsen and Gloria Nilsen, husband and wife, to Durable Homes, Inc. by deed dated October 11, 1984 and to be recorded simultaneously herewith

Sec 57 BLK 1 Lot 12

party of the first part; and

DONALD DIETRICHSEN AND ARLENE DIETRICHSEN, presently residing at 9 Willow Lane, in the Town of New Windsor, County of Orange and State of New York,

party of the second part,

WITNESSETH, that the party of the first part, in consideration of -----TEN DOLLARS-----

-----(\$10.00)----- dollars,

lawful money of the United States, and other good and valuable consideration paid

by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of New Windsor, Orange County, New York, being more particularly described as follows:

BEGINNING at a point of intersection formed by the Southerly line of Vascello Road, and the Westerly line of Chesnut Avenue, all as shown on a certain Map entitled "Lands of Vascello" as filed in the Orange County Clerk's Office on June 19, 1959 as filed Map No. 1807, and running thence;

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4. South 76 degrees 47' 30" E 116.00' along the aforesaid Southerly line of Vascello Road, to the point or place of beginning.

BEING AND INTENDED to be the same premise conveyed from Alfred Nilsen and Gloria Nilsen, husband and wife, to Durable Homes, Inc. by deed dated October 11, 1984 and to be recorded simultaneously herewith.

PUBLIC NOTICE OF HEARING BEFORE

ZONING BOARD OF APPEALS

TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following proposition:

Appeal No. 3

Request of Arlene & Donald Dietrich

for a VARIANCE of

the regulations of the Zoning Local Law to

permit existing screened in porch w/  
insufficient rear yard;

being a VARIANCE of

Section 48-12 - Table of Use / Bulk Reqs. - Col. G

for property situated as follows:

R.D. 4 - Box 391 D Chestnut Ave.

New Windsor, N.Y. 12553 - known & designated

as Tax map Sec. 57-BLK. 1 - Lot. 72.

SAID HEARING will take place on the 13<sup>th</sup> day of

August, 1990, at the New Windsor Town Hall,

555 Union Avenue, New Windsor, N. Y. beginning at

7:30 o'clock P. M.

Richard Fenwick  
Chairman



# TOWN OF NEW WINDSOR

555 UNION AVENUE  
NEW WINDSOR, NEW YORK

32

June 18, 1990

Donald Dietrichsen  
Box 391D Chestnut Ave.  
New Windsor, NY 12553

Re: Tax Map Parcel #57-1-72

Dear Mr. Dietrichsen:

According to our records, the attached list of property owners are within five hundred (500) feet of the above mentioned property.

The charge for this service is \$55.00, minus your deposit of \$25.00.

Please remit the balance of \$30.00 to the Town Clerk, Town of New Windsor, NY.

Sincerely,

*L. Cook*

LESLIE COOK  
Sole Assessor

LC/po  
Attachments  
cc: Patricia Barnhart

Hazirjian, Dikran & Virginia  
RD 4 Box 395E  
New Windsor, NY 12553

Sanderson, Albert  
RD 4 Chestnut Ave. Box 395D  
New Windsor, NY 12553

Shannon, Michael & Cynthia  
RD 4 Box 395C Chestnut Ave.  
New Windsor, NY 12553

Dibernardo, Christopher & Linda Massochi  
RD 4 Box 395F Chestnut Ave.  
New Windsor, NY 12553

Lewis, Jay E. & Fannie  
RD 4 Chestnut Ave. Box 395  
New Windsor, NY 12553

Consolidated Rail Corp.  
6 Penn Center Plaza  
Philadelphia, PA 19103

Mitchell, Reuben W. & Elaine & Brimberg, Max & Ruthe  
RD 4 Box 421 Beaver Brook Rd.  
New Windsor, NY 12553

Pederson, Kenneth L.  
P.O. Box 106  
Clinton Corners, NY 12514

Foti, Michael & Deborah A.  
RD 4 Box 397B  
New Windsor, NY 12553

Anastasio, Edward C. & Teena  
RD4 Box 397  
New Windsor, NY 12553

Doyle, Stephen P. & Gloria J.  
RD 4 Box 396-D  
New Windsor, NY 12553

Landi, Alex & Grace  
RD4 Box 396C Schiavone Rd.  
New Windsor, NY 12553

Zippo, Bretnall & Nancy  
RD4 Box 396B Schiavone Rd.  
New Windsor, NY 12553

Palko, Andrew A.  
70 Lake Rd.  
Salisbury Mills, NY 12577

DiGiacomo, Joseph & Charlene Marie  
Vascello Rd.  
New Windsor, NY 12553



Chmielnik, Kevin & Karen  
Box 398D RD4 Vascello Rd.  
New Windsor, NY 12553

McDougall, Joseph & Julie  
399 Vascello Rd.  
New Windsor, NY 12553

Ryan, Thomas E. & Louise A.  
RD4 Vascello Rd.  
New Windsor, NY 12553

Forgacs, Ralph & Lori  
RD4 Box 399-C  
New Windsor, NY 12553

Frustaci, Joseph F. & Linda  
391 Vascello Rd.  
New Windsor, NY 12553

La Bar, Charles G. Jr. & Cathy L.  
P.O. Box 4528  
New Windsor, NY 12553

Gazzola, Raymond  
c/o Data Architects  
1790 Vallejo, St.  
San Francisco, CA 94123

Albrecht, Raymond M. & Elizabeth  
391 Vascello Rd.  
New Windsor, NY 12553

Herter, William C. & Elaine T.  
391 C Vascello Rd.  
New Windsor, NY 12553

Pluger, Peter J. & Barbara A.  
Chestnut Ave.  
New Windsor, NY 12553

Locurto III, Joseph A. & Dawn V.  
RD4 Box 392 Chestnut Ave.  
New Windsor, NY 12553

Quality Builders of Orange County, Inc.  
5 Cardinal Dr.  
Washingtonville, NY 10992

Dragos, Robert C. & Amy T.  
381A Lakeside Dr.  
New Windsor, NY 12553

Saxe, Barry  
Mc Daniel Rd.  
Shady, NY 12479

Richards, James J. & Luann M.  
RD4 Box 396 Chestnut Ave.  
New Windsor, NY 12553

Mannina, Gail Anne  
Box 395 RD4 Chestnut Ave.  
New Windsor, NY 12553

Retcho, Terrence & Jeannette  
Lakeside Dr. RD4  
New Windsor, NY 12553